

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES COMMODITY FUTURES  
TRADING COMMISSION,

No. 09-2555 MMC

Plaintiff,

**ORDER DISMISSING WITHOUT  
PREJUDICE PLAINTIFF'S CLAIMS  
AGAINST JIN K. CHUNG; DIRECTIONS  
TO CLERK**

v.

SNC ASSET MANAGEMENT, INC., et al.,

Defendants.

/

Before the Court is plaintiff United States Commodity Futures Trading Commission's ("USCFTC"), response, filed May 27, 2011, to the Court's May 13, 2011 order directing USCFTC to show cause why its claims against defendant Jin K. Chung ("Chung") should not be dismissed for the reason USCFTC had not served said defendant by the December 31, 2010 deadline set by the Court. Having read and considered USCFTC's response, the Court rules as follows.

The instant action was filed over two years ago. To date, USCFTC has been unable to serve Chung, the sole remaining defendant, and there is no showing USCFTC is likely to effectuate service on Chung in the near future. USCFTC has not shown, nor argued, it would be prejudiced should its claims against Chung be dismissed without prejudice. Congress has not provided a statute of limitations for claims brought by USCFTC under 7

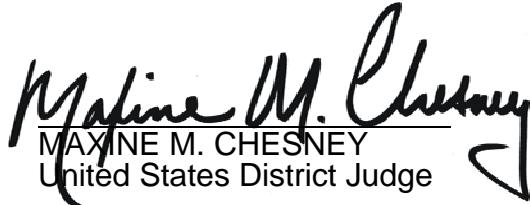
1 U.S.C. § 13a-1, the statute under which USCFTC seeks relief herein, and, consequently, it  
2 would appear that USCFTC's claims against Chung need not be brought within any  
3 particular limitations period. See 7 U.S.C. § 13a-1; Simpson v. Office of Thrift Supervision,  
4 29 F.3d 1418, 1425 (9th Cir. 1994) ("If Congress has not provided an applicable statute of  
5 limitation, generally, the United States is not subject to a statute of limitation in enforcing its  
6 rights."). Under such circumstances, a dismissal without prejudice of the claims against  
7 Chung is appropriate.

8 Accordingly, USCFTC's claims against Chung are hereby DISMISSED, without  
9 prejudice.

10 Because USCFTC's claims against all other defendants have been resolved, the  
11 Clerk is hereby DIRECTED to close the file.

12 **IT IS SO ORDERED.**

13  
14 Dated: June 16, 2011  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

  
MAXINE M. CHESNEY  
United States District Judge